

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OFFICE OF THE CHIEF ADMINISTRATIVE HEARING OFFICER

UNITED STATES OF AMERICA,
Complainant,

8 U.S.C. §1324a
PROCEEDING

vs.

ABC ROOFING AND WATERPROOFING, INC.
Respondent.

OCAHO CASE
No. 89100389

ORDER SETTING DISCOVERY SCHEDULE

A hearing was conducted in this proceeding on April 9, 10 and 11, 1991 in Brownsville Texas. Pursuant to the hearing and the parties' post-hearing briefs, I issued a Decision and Order dismissing the Complaint in its entirety on July 25, 1991. On August 26, 1991, the Chief Administrative Hearing Officer (CAHO) affirmed my Decision and Order with respect to Olvera, Francisco-Vega and Romero, employees of the Respondent. However, the CAHO vacated that part of my Decision and Order dealing with Ruiz, Alcala and Camarillo; specifically, the CAHO remanded that portion of the case and ordered the undersigned to conduct further proceedings on the issue of whether Complainant had complied with 28 C.F.R. §68.16 and 5 U.S.C. §552(a)(2)(C).

The CAHO's remand returned the case to a pre-hearing posture thus permitting the parties herein to pursue additional discovery on the remaining legal issue.

Accordingly, the following discovery schedule will be adhered to by the parties unless modified by a subsequent order:

1. On September 3, 1991, Respondent served Supplemental Interrogatories, Set No. 6, upon the Complainant. By my Order dated September 20, 1991, Complainant has until October 25, 1991 to serve its answers to Supplemental Interrogatories, Set No. 6, upon the Respondent.

2. On September 23, 1991, Respondent served its Request for Production, Set No. 5 on the Complainant. Complainant will respond to the instant request on or before October 25, 1991.

3. Any additional discovery requests will not be favorably entertained by the undersigned; but in no case shall any additional discovery requests have a due date after November 1, 1991.

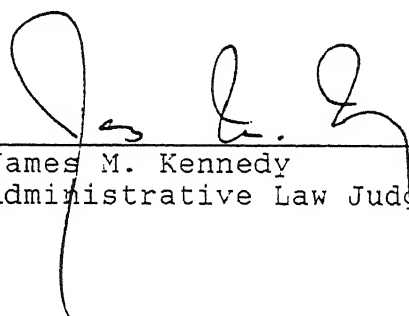
4. If the parties reach any factual stipulations regarding the remaining legal issue in this case, they will file no later than November 29, 1991, a written statement reflecting such stipulations; in the event that the parties cannot stipulate to any factual issues, they will nevertheless file no later than November 29, 1991, as full a statement as practicable in accordance with the prehearing statement provisions of 28 C.F.R. §68.10 (1991).

5. After the completion of discovery in accordance with the requirements set forth in the preceding paragraphs, this matter may be ripe for decision without the need for an evidentiary hearing. The parties may file motions or cross-motions adjudicating all or any part of the case on or after December 2, 1991.

6. If summary adjudication does not occur, and it appears

that there is a genuine issue of material facts of decisional significance which cannot be resolved except by the testimony of witnesses, an evidentiary hearing, limited to the remaining issue, will be conducted in January, 1992. The parties are to agree upon a January hearing date and advise me, should a hearing be necessary.

SO ORDERED.



James M. Kennedy
Administrative Law Judge

October 1, 1991
San Francisco, California

